

was pressing the common law hard. The civil law, as Sir Thomas Smith assured the yet briefless barrister, offered a promising career, since it was practised in the ecclesiastical courts.*⁰ Though it did not forbid itself usury, it had much to say about it ; it was a doctor of the civil law under Elizabeth by whom the most elaborate treatise on the subject was compiled.⁴¹ By an argument made familiar by a modern controversy on which lay and ecclesiastical opinion have diverged, it is argued that the laxity of the-State does not excuse the consciences of men who are the subjects, not only of the State, but of the Church. " The permission of the Prince/¹ it was urged, " is no absolution from the authority of the Church. Supposing usury to be unlawful . . . yet the civil laws permit it, and the Church forbids it. In this case the Canons are to be preferred. . . . By the laws no man is compelled to be an usurer ; and therefore he must pay that reverence and obedience which is otherwise due to them that have the rule over them in the conduct of their souls.^{11"}

If this theory which was held by almost all the ecclesiastical writers who dealt with economic ethics in the sixteenth century. Their view was that, in the words of a pamphleteer, " by the laws of the Church of England . . . usury is simply and generally

prohibited.⁴¹ When the lower House of Convocation petitioned the bishops in 1554 for a restoration of their privileges, they urged, among other matters, that usurers may be punished by the canon lawes as in tymes past has been used.⁴¹ In the abortive scheme for the reorganization of the ecclesiastical jurisdiction drawn up by Cranmer and Foxe, usury was included in the list of offences with which the ecclesiastical courts were to deal, and, for the guidance of judges in what must often have been somewhat knotty cases, a note was added, explaining that it was not to be taken as including the profits derived from